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China, Peoples Republic of

FAIRS Product Specific

Bulk Commodity Reporting System

2006

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Report Highlights:

On November 29, 2006, China's Ministry of Commerce (MOFCOM) published "The Administrative Measures of the Reporting and Information Publication on the Import of Bulk Agriculture Commodities." The press release stated that the import commodity reporting system trial implementation would only apply to certain soy products, but did not state when the trial would commence. Comments on this system were requested by December 10. Though the submission date has already passed, companies are still encouraged to submit comments to MOFCOM. This report contains an UNOFFICIAL translation of the MOFCOM regulation.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Beijing [CH1]
[CH]

Executive Summary

On November 29, 2006, China's Ministry of Commerce (MOFCOM) published "The Administrative Measures of the Reporting and Information Publication on the Import of Bulk Agriculture Commodities." The original MOFCOM release is posted at: <http://tfs.mofcom.gov.cn/aarticle/as/200611/20061103884079.html>. The press release stated that the import reporting system would be for trial implementation, but did not state when the trial would begin. The initial trial would only apply to certain soy products. This report contains an UNOFFICIAL translation of the MOFCOM press release.

MOFCOM has acknowledged that this system is loosely based on the USDA Export Reporting System (ERS). However, there are several key differences between the program description published by MOFCOM and the USDA ERS system. Some of the key differences in the Chinese proposal are the additional reporting requirements after the contract has been completed, the severe penalties involved, and the suggestion that the Chinese system may have a role beyond passive information dissemination. Some of these issues are difficult to assess because many of the technical aspects of the system's operation are not clearly defined. For comparison purposes, please refer to the Export Sales Reporting System factsheet at: <http://www.fas.usda.gov/info/factsheets/expsls.asp>.

Comments on this system were requested by December 10. However, consideration of this regulation was not widely known and there was no public announcement beyond the official MOFCOM notification on its website. This measure was neither submitted to the WTO for public comment nor to industry representatives. Due to these factors, very few Chinese or foreign companies knew of this regulation and almost none had the opportunity to respond.

MOFCOM has stated that it believes the reporting system will have no trade impact and is WTO compliant. However, MOFCOM has stated that it is interested in industry comments and will take them into consideration. Though the submission date has already passed, companies are still encouraged to submit comments to the MOFCOM contact point indicated in the press release.

BEGIN TRANSLATION

Administrative Measures of the Reporting and Information Publication on the Import of Bulk Agricultural Products (For Trial Implementation)

With a view to regulating the order of foreign trade and protecting the legal rights and interests of the operators, the Ministry draws out the Measures for the Administration of the Reporting and Information Publication on the Import of Bulk Agricultural Products (For Trial Implementation). The Measures are hereby published to solicit opinions thereon.

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(Expiration Date for Opinion Solicitation: December 10th, 2006)

Administration Measures of the Reporting and Information Publication on the Import of Bulk Agricultural Products (For Trial Implementation)

Article 1 With a view to maintaining the order of foreign trade, protecting the legal rights and interests of the operators, intensifying the monitoring and administration of the import

of the bulk agricultural product and publishing the information of the import of bulk agricultural products and in accordance with the Foreign Trade Law of the People's Republic of China, the Statistics Law of the People's Republic of China, the Regulations of the People's Republic of China on the Import and Export of Goods and the Detailed Rules for the Implementation of the Statistics Law of the People's Republic of China, the Measures are hereby formulated.

Article 2 The Ministry of Commerce will establish the reporting system of the import of the bulk agricultural products and conduct statistics and monitoring on the conclusion of the contracts of bulk agricultural products and the final completion of the transactions.

The Ministry of Commerce will establish the system of the publication of the information on the import of bulk agricultural products according to the information reported by the import operators, publish on a regular basis the information on the possible import of bulk agricultural products within a certain period in the future and enhance guidance in terms of market information.

Article 3 The reporting administration on the import of bulk agricultural products is applicable to the import transactions completed in various trade forms, including the bulk agricultural products imported into bonded warehouses, other bonded areas and export processing zones from overseas.

Article 4 The Ministry of Commerce will determine, adjust and publish the Catalogue of the Bulk Agricultural Products Subject to Import Reporting Administration after consulting jointly with relevant departments.

Article 5 The Ministry of Commerce entrusts relevant organs (hereinafter referred to as the "entrusted organs") to be responsible for the daily work such as the collection, sorting, summarization and analysis on the information on the reporting of the import of the bulk agricultural products.

Article 6 The operators who engage in the import of bulk agricultural products subject to the import reporting administration shall operate legally in accordance with relevant regulations of the state, complete the record registration on the basic conditions of the enterprise with the entrusted organs, and perform the obligation of import reporting in accordance with the requirements of the Measures.

Article 7 The import operators shall complete the reporting obligation within the provided time upon the completion of the following operation acts:

1. Upon the conclusion of the import contracts;
2. Upon the shipment of the goods out of the port of departure;
3. Upon the arrival of the goods at the port of destination;
4. Upon the occurrence of the changes on the reporting matters.

Article 8 The import operators shall fill in the report form on the import of bulk agricultural products according to the requirements and may report to the entrusted organs via electronic network or, under special circumstances, in written form.

Article 9 The reporting matters mainly include the description, quantity, trade country (or region), country (or region) of origin, date of shipment, port of departure, port of import customs declaration, estimated time of arrival and actual time of arrival of the imported goods.

Article 10 The import operators shall designate special personnel to be responsible for the import reporting. The import reporters shall report relevant import information in an earnest, timely and accurate manner and be responsible to the authenticity of the content of the report and shall not commit watering, concealment, forgery, falsification, delay and refusal in the reporting.

Article 11 The entrusted organs shall report to the Ministry of Commerce the conditions on the information on the import of bulk agricultural products on a regular basis and also emerging problems at any time.

Article 12 The Ministry of Commerce shall publish on the website of the Ministry of Commerce on a regular basis the information on the bulk agricultural products subject to the reporting administration in import.

Article 13 The Ministry of Commerce shall administrate the information on the import of the bulk agricultural products through the implementation of import reporting system. In the cases of sharp increase of imports, violent swing of prices and other factors affecting the market stability, the Ministry of Commerce shall issue early warning or adopt other appropriate measures according to the relevant regulations.

Article 14 The entrusted organs shall be responsible for examining on a regular basis the authenticity of the conditions on the reports of the operators in the import of bulk agricultural products and report the examination results to the Ministry of Commerce in a timely manner.

Article 15 The Ministry of Commerce shall report relevant conditions to the National Statistics Bureau according to the results of the examination if it is found that the foreign trade operators have conducted any illegal acts of watering, concealment, forgery, falsification, refusal or delay in reporting as listed in the Article 27 of the Statistics Law of the People's Republic of China and suggest the statistical departments to impose the administrative sanctions such as warning and a fine less than 50, 000 yuan in accordance with the provisions in the Article 33 of the Detailed Rules for the Implementation of the Statistics Law of the People's Republic of China.

Article 16 The Ministry of Commerce may, depending on the seriousness of the conditions of the violations of the import operators that have violated the laws and regulations, prohibit such import operators from engaging in the foreign trade operations of such goods within a period more than 1 year and less than 3 years from the date when the administrative sanctions imposed by the state statistical departments in accordance with the law.

Article 17 The Ministry of Commerce may publish the announcement on the acts of the examined operators in violation of the reporting administration of the import of bulk agricultural products according to the results of the examination and in accordance with the provisions in the Measures for the Announcement on the Acts of the Foreign Trade Operators in Violation of the Laws and Regulations and notify of the relevant sanction decisions the organizations such as the departments of customs, taxation, quality inspection, foreign exchange and industry and commerce and the local competent department of commerce, the industrial referral organizations and banks.

Article 18 Where the import operators are disaffected with the administrative sanctions imposed by the Ministry of Commerce in accordance with the Measures, such operators may apply for reconsideration to the Reconsideration Committee of the Ministry of Commerce in accordance with the Administrative Reconsideration Law of the People's Republic of China or raise an action to the People's Court in accordance with the Administrative Procedure Law of the People's Republic of China. During the administrative reconsideration and the

administrative action, the implementation of the original administrative sanction shall not be suspended.

Article 19 The entrusted organs of the Ministry of Commerce and relevant working staff shall perform their duties in an earnest and practical manner, provide various statistical data to the Ministry of Commerce according to the facts, conduct the examination in a good way and complete the working assignments in an accurate and timely manner.

Article 20 The Ministry of Commerce and its entrusted organs shall keep confidential the business secrets of the import operators that perform the obligation of import information reporting and shall not disclose the specific information on the import operators to any enterprise, organization and individual.

Article 21 Any organization and individual may report fraudulent practices in the import reporting information of other import operators. The Ministry of Commerce will impose administrative sanctions on the import operators in violation of the laws and regulations in accordance with the Measures upon the confirmation of such violations after investigation.

Article 22 The right to interpretation of the Measures rests with the Ministry of Commerce.

Article 23 The Measures shall come into effect from the date of xx month xx year.

The Ministry of Commerce 2006

Appendix: Catalogue of the Bulk Agricultural Products Subject to the Import Reporting Administration

Catalogue of the Bulk Agricultural Products Subject to the Import Reporting Administration

| Serial No. | Category of Goods | Code of Goods | Description of Goods |
|------------|-------------------|---------------|---|
| 1 | Soybean | 12010010 | Soybean for seed use |
| | | 12010091 | Yellow Soybean for Non-Seed Use (Whether crushed or not) |
| | | 12010092 | Black Soybean for Non-Seed Use (Whether crushed or not) |
| | | 12010093 | Green Soybean for Non-Seed Use (Whether crushed or not) |
| | | 12010099 | Other Soybean for Non-Seed Use (Whether crushed or not) |
| 2 | Soybean Meal | 23040010 | Oil Foot Cake from Soybean Oil Refining (Soybean cake) |
| | | 23040090 | Other Solid Residue from Soybean Oil Refining (Whether ground or made into agglomerate) |

END TRANSLATION